

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

HANNAH KIDWELL and BILLY  
RAY KIDWELL,

Plaintiffs,

v.

Case No.: 2:21-cv-517-SPC-MRM

WALMART, INC., DOUG  
MCMILLON, KAREN ROBERTS,  
CHANEL BARGAUSEN, LARRY  
COULTAS, BILL PRUMMEL, and  
UNKNOWN CHARLOTTE  
COUNTY SHERIFF'S DEPUTIES,

Defendants.

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**ORDER**<sup>1</sup>

Before the Court is a sua sponte review of the case. On January 31, 2022, the Court dismissed Plaintiffs' Complaint without prejudice as a shotgun pleading. ([Doc. 55](#)). The Court gave Plaintiffs until February 17, 2022, to file an amended complaint and warned that failure to file an amended complaint **"will cause the closure of this case without further notice."** ([Doc. 55 at 5-6](#)). The deadline came and went with no amended complaint filed. This isn't

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the first time that Plaintiffs did not respond to the Court's orders. Plaintiffs flouted five of the Magistrate Judge's orders to show cause or to comply. (Docs. 34, 36, 43, 48, and 52). The Magistrate Judge discharged those orders (Doc. 54) but would have been well within his discretion to sanction Plaintiffs. But the Court need not consider sanctions here because as the Eleventh Circuit has said, when a plaintiff does not amend, the Court's order becomes a final judgment, and the case is closed. *Auto. Alignment & Body Servs., Inc. v. State Farm*, 953 F.3d 707, 719-20 (11th Cir. 2020) (The "order dismissing a complaint with leave to amend within a specified time becomes a final judgment if the time allowed for amendment expires.").


Since the order to amend, the only word from Plaintiffs were two "Notices," neither of which could be construed as an amended complaint. (Docs. 56, 57). Both filings discuss Billy Ray Kidwell's health problems. The second filing states that because of his health problems he cannot comply with the Court's order. (Doc. 57 at 1). But he does not request a stay, nor an extension of time to file an amended complaint, and the Court otherwise has no information that would support an indefinite stay of these proceedings. *See Kidwell v. Charlotte Cnty. Sch. Bd.*, 2007 WL 9718743, \*2 (M.D. Fla. Nov. 7, 2007) ("Neither [plaintiff's] *pro se* status nor his health condition will permit [him] to disregard his obligation to properly prosecute this action.").

Accordingly, it is now

**ORDERED:**

1. This action is **DISMISSED without prejudice**. The Court's January 31, 2022, Order constitutes a final judgment.
2. The Clerk is **DIRECTED** to enter judgment, terminate any pending motions or deadlines, and close the case.

**DONE** and **ORDERED** in Fort Myers, Florida on February 23, 2022.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record